

CHAPTER 61-24
GARRISON DIVERSION CONSERVANCY DISTRICT

61-24-01. Development and utilization of land and water resources declared a public purpose - Declaration of intention - Interpretation. It is hereby declared that more effective development and utilization of the land and water resources of this state, protection and preservation of the benefits therefrom, opportunity for greater economic security, protection of health, property and enterprise, and the promotion of the prosperity and general welfare of all of the people of North Dakota involve, necessitate, and require the exercise of the sovereign powers of the state and concern a public purpose, the accomplishment of which, among other things, demands, and it is hereby declared necessary, that the Garrison Diversion Unit of the Missouri River basin project as authorized by Act of Congress approved December 22, 1944 [58 Stat. 887], and acts amendatory thereof and supplementary thereto, be established and constructed:

1. To provide for the future economic welfare and prosperity of the people of this state, and particularly of the people residing in the area embraced within the boundaries of the conservancy district created by this chapter.
2. To provide for the irrigation of lands within the sections of such district periodically afflicted with drought, and to stabilize the production of crops thereon.
3. To replenish and restore the depleted waters of lakes, the Red, Sheyenne, James, and other rivers, and streams in the district, and to stabilize the flow of these streams.
4. To replenish the waters, and to restore the level of Devils Lake, Stump Lake, Lake Williams, and Turtle Lake.
5. To make available within the district, waters diverted from the Missouri River for irrigation, domestic, municipal, and industrial needs, and for hydroelectric power, recreation, fish, wildlife, and other beneficial and public uses.

The provisions hereof shall not be construed to, in any manner, abrogate or limit the rights, powers, duties, and functions of the state water commission, but shall be held to be supplementary thereto and an aid thereof. Nor shall this chapter be construed as limiting or in any way affecting the laws of this state relating to the organization and maintenance of irrigation districts, flood irrigation districts, water resource districts, drainage districts, or watershed protection districts, nor as precluding the establishment of any such district wholly or in part within the boundaries of the district created by this chapter.

61-24-02. Garrison Diversion Conservancy District created. The "Garrison Diversion Conservancy District", hereinafter referred to as the "district" consists of that part of the state that is included within the boundaries of the following counties: Barnes, Benson, Bottineau, Burleigh, Cass, Dickey, Eddy, Foster, Grand Forks, Griggs, LaMoure, McHenry, McLean, Nelson, Pierce, Ramsey, Ransom, Renville, Richland, Sargent, Sheridan, Steele, Stutsman, Traill, Ward, and Wells.

The district is a governmental agency, body politic and corporate with the authority to exercise the powers specified in this chapter, or which may be reasonably implied.

Any county may join the district upon application of its board of county commissioners and the approval of the application by the board of directors of the district. Such county is authorized to levy taxes as may be necessary to carry out its part of the agreement for becoming a part of the district, which levy is in addition to the amount that may otherwise be legally levied for county purposes.

61-24-03. Election of directors of the Garrison diversion conservancy district. A director of the Garrison diversion conservancy district must be nominated and elected in each county in the district. Any person who is a resident and qualified elector of the county who aspires to the office of director of the Garrison diversion conservancy district shall, not more than seventy days or less than sixty days and before four p.m. of the sixtieth day before any primary election preceding a general election at which a director of the district is to be elected, present to the county auditor a petition giving that person's name, post-office address, the title of the office "Director of the Garrison Diversion Conservancy District", and containing the signatures of not less than fifty nor more than three hundred qualified electors of the county to which each signer has added the signer's residence with street number, if any, and the date of signing.

The petition must be accompanied by an affidavit substantially as follows:
STATE OF NORTH DAKOTA,
County of _____

I, _____, being sworn, say that I reside in the county of _____ and State of North Dakota; that I am a qualified elector therein; that I am a candidate for nomination to the office of director of the Garrison Diversion Conservancy District to be chosen at the primary election to be held on _____, _____, and I request that my name be printed upon the no-party primary election ballot as provided by law, as a candidate for the office.

Subscribed and sworn to before me on _____, _____.

Notary Public

Upon receipt of the petition the county auditor shall without fee place the name of the aspirant on the no-party primary election ballot as a candidate for the aforesaid office of director. The two candidates receiving the highest number of votes if more than two are running are nominated.

The names of the candidates so nominated at the primary election must be placed on the no-party ballot at the ensuing general election and the candidate receiving the highest number of votes is elected.

At the primary and general elections votes must be canvassed, returned certified, and certificates of nomination and election issued in the manner provided by law for the nomination and election of county officers.

61-24-03.1. Filling vacancy of director on general election ballot. Whenever a vacancy exists on a general election no-party ballot for any directorship of the Garrison Diversion Conservancy District, the vacancy may be filled by filing with the county auditor at least sixty days prior to the general election a petition substantially in the form provided in section 61-24-03, stating that the petitioner desires to become a candidate for election to the office of director. This petition must contain the signatures of not less than fifty qualified electors of the county, unless there were at least fifty write-in or sticker votes for the petitioner cast in the no-party primary election for the office.

A vacancy in the no-party ballot is deemed to exist when no candidate is nominated at the primary election or when a candidate nominated at the primary dies, resigns, or otherwise becomes disqualified to have that person's name printed on the ballot at the general election.

61-24-04. Compensation of directors. Each member of the board of directors of the district is entitled to receive as compensation from the district an amount determined by the board of directors not to exceed the amount provided for members of the legislative council under section 54-35-10 per day and must be reimbursed for the member's expenses in the amounts provided in sections 44-08-04 and 54-06-09 while attending meetings of the board or otherwise engaged in the official business of the district.

61-24-05. Term of office of directors - Oath of office - Bonds. Each member of the board of directors of the district shall hold office for a term of three years, and until the successor in office has been appointed and qualified, provided, that one-third of the board first appointed shall hold office for a term of three years, one-third for a term of two years, and the other directors shall hold office for a term of one year, from the first day of July next following the date of their appointment. Before assuming the duties of the office, each director shall take and subscribe the oath of office prescribed by law for civil officers. The district treasurer shall be bonded in such amount as the board may prescribe.

A member of the board of directors of the district elected in 1960 and thereafter shall hold office for a term of four years and until a successor has been duly elected and qualifies, but one-half of the directors elected at the general election in 1960 shall hold office for a term of two years, and one-half shall hold office for four years. Terms of office of directors elected at the first election shall be determined by lot. Directors elected after 1960 shall hold office for a term of four years. If the office of any director shall become vacant by reason of the failure of any director elected at any election to qualify or for any other reason, the successor shall be appointed to fill the vacancy by the board of county commissioners of the county in which the vacancy occurs. A director appointed to fill a vacancy shall hold office for the unexpired term of the director whose office has become vacant. A director shall, however, hold office until a successor has been elected and qualifies.

Members of the board of directors elected in 1960 shall assume office on the first Monday in January 1961 and shall replace all members of the board previously appointed. They shall meet at a time and place designated by the secretary of the replaced board of directors, and if that secretary is unable to act, by the secretary of the state water commission, and shall organize in the same manner as the first board of directors was organized. The secretary of the replaced board and any other person employed by that board shall continue in their positions until the new board shall otherwise provide.

61-24-06. Meetings of the board - Quorum - Board to adopt rules, regulations, and bylaws. The board of directors of the district shall adopt such rules and regulations and bylaws for the conduct of the business affairs of the district as they may deem necessary, including the time and place of regular meetings of the board. They shall elect from their number a chairman and vice chairman. They shall also elect a secretary and a treasurer, which offices may be held by the same person, and either or both offices may be held by someone not a member of the board. Special meetings may be called by the secretary on order of the chairman of the board or upon the written request of the majority of the qualified members of the board. Notice of a special meeting shall be mailed to each member of the board at least six days before such meetings, provided, that a special meeting may be held at any time when all members of the board are present or consent thereto in writing. A majority of the members of the board of directors shall constitute a quorum for the transaction of business, but any number may adjourn the meeting for want of a quorum.

61-24-07. Attorney general shall act as legal adviser - Chief engineer of state water commission to assist board - Employment of counsel and engineers. The attorney general shall, as far as the attorney general's duties permit, act as the legal adviser of the board. The chief engineer of the state water commission shall furnish such engineering services and assistance as the duties of the chief engineer's office permit. When the district has funds available, the board of directors may employ other counsel to advise and represent it in its proceedings and affairs, and may employ other engineers and engineering services in connection with its work and the affairs of the district.

61-24-08. Powers and duties of the district board of directors. The board of directors of the Garrison Diversion Conservancy District shall have the power:

1. To sue and be sued in the name of the district.
2. To exercise the power of eminent domain in the manner provided by title 32 for the purpose of acquiring and securing any right, title, interest, estate, or easement

necessary to carry out the duties imposed by this chapter, and particularly to acquire the necessary rights in land for the construction of dams, reservoirs, canals, hydroplants, irrigation systems, and any other device for the conservation, storage and use of water, and to secure the right of access to such works and the right of the public access to the waters impounding thereby or emanating therefrom.

3. To accept funds, property and services or other assistance, financial or otherwise, from federal, state, and other public or private sources for the purpose of aiding and promoting the construction, maintenance, and operation of the Garrison Diversion Unit, or any part thereof.
4. To cooperate and contract with the state, its agencies, or its political subdivisions, or any agency of the United States, in research and investigation or other activities promoting the establishment, construction, development, or operation of the Garrison Diversion Unit, or any part thereof.
5. To furnish assurances of cooperation and as principal and guarantor or either to enter into a contract, or contracts, with the United States of America, or any department or agency thereof, and with public corporations of North Dakota for the performance of obligations entered into with the United States for the construction, operation, or maintenance of works of the Garrison Diversion Unit of the Missouri River basin project as defined by Act of Congress, approved December 22, 1944 [58 Stat. 887], and acts amendatory thereof or supplementary thereto.
6. To construct separately or in cooperation with agencies of the United States, or the state of North Dakota, its agencies or political subdivisions, and to equip, maintain, and operate an office and principal place of business for the district, or other buildings or facilities to carry out activities authorized by this chapter.
7. To appoint and fix the compensation of such employees as the board shall deem necessary to conduct the business and affairs of the district.
8. To appoint from their number an executive committee and vest the same with such powers and duties as the board may from time to time delegate thereto, in order to facilitate the duties and work of the board in connection with the business affairs involved in the development, construction, operation, and maintenance of the Garrison Diversion Unit, or any part thereof.
9. In 1961 and each year thereafter to levy a tax of not to exceed one mill annually on each dollar of taxable valuation in the district for the payment of the expenses of the district, including, but not limited to, per diem, mileage and other expenses of directors, technical, administrative, clerical, operating and other expenses of the district office, and for the cumulation of a continuing fund through such levy for the performance of obligations entered into with the United States of America in connection with the construction, operation, and maintenance of works of the said Garrison Diversion Unit of the Missouri River basin project. All moneys collected pursuant to such levy shall be deposited in the Bank of North Dakota to the credit of the district and shall be disbursed only as herein provided. The board may invest any funds on hand, not needed for immediate disbursement or which are held in reserve for future payments, in bonds of the United States, bonds and mortgages or other securities the payment of which is guaranteed by the United States or an instrumentality or agency thereof, bonds or certificates of indebtedness of the state of North Dakota or any of its political subdivisions. The amount which may be levied in any one year for operating the district prior to authorization by Congress of the Garrison diversion project shall not exceed ten percent of the maximum permissible.
10. To enter into a contract or contracts for a supply of water from the United States and to sell, lease, and otherwise contract to furnish any such water for beneficial use to

irrigation districts, persons, other public and private corporations, or limited liability companies within the district.

11. To operate and maintain or to contract for the operation and maintenance of water supply and irrigation works serving lands and uses within the district, and in connection therewith, to maintain a reserve fund to meet major unforeseen costs of operation and maintenance.
12. To accept, on behalf of the district, appointment of the district as fiscal agent of the United States and authorization to make collections of money for and on behalf of the United States in connection with the Garrison Diversion Unit.
13. To use navigable lakes and streams within the conservancy district for holding, impounding, and conveying water of the Garrison Diversion Unit.
14. To provide administrative aid and assistance in the relocation of buildings and the replacement of land to persons affected by the Garrison diversion development in an effort to make certain that such persons are treated fairly and that they do not suffer financial hardship due to the development of the Garrison Diversion Unit.
15. To sell or exchange any and all real property purchased or acquired by the district. All moneys received pursuant to any such sale or exchange shall be deposited in the Bank of North Dakota to the credit of the district and may be disbursed only for the payment of expenses of the district as specified in subsection 9.

61-24-09. District budget - Determination of amount to be levied - Adoption of levy - Limitation. In July of each year the board of directors shall estimate and itemize all the expenses and obligations of the district, including, but not limited to, expenses of directors, expenses of operating the office, debt service and retirement, and obligations and liabilities to the United States for which provision must be made. The board of directors may include in such budget funds deemed necessary to create reserve funds to meet future payments under district contracts. Upon the completion and adoption of such budget, the board of directors shall make a tax levy in an amount sufficient to meet such budget. Such levy shall be in the form of a resolution, adopted by a majority vote of the members of the board of directors of the district. Such resolution shall levy in mills, but not exceeding one mill, sufficient to meet all the expenses, obligations, and liabilities of the district as provided in the budget.

61-24-10. Certified copies of levy and budget sent to county auditors. Immediately after completion of the budget and the adoption of the annual tax levy by the board of directors of the district, but not later than October first, the secretary of the district shall send one certified copy of the levy as adopted and one certified copy of the budget to the county auditor of each county in the district.

61-24-11. County auditors to extend tax levy. The county auditor of each county in the district shall extend the levy upon the tax list of the county for the current year against each description of real property and all personal property within the county in the same manner and with the same effect as other taxes are extended.

61-24-12. County treasurers to collect and remit district taxes. The treasurer of each county in the district shall collect all district taxes, together with interest and penalty thereon, if any, in the same manner as the general taxes are collected, and shall pay over to the treasurer of the Garrison Diversion Conservancy District, on the first day of each month, on demand, all taxes so collected during the preceding month, with interest and penalties collected thereon, and forthwith shall notify the secretary of the district of such payment.

61-24-13. District may enter into contract for the construction, operation, and maintenance of works. When the board of directors of Garrison Diversion Conservancy District is notified by the United States, or by any department or agency thereof, that it is necessary for the district to enter into a contract as principal and guarantor or either, for the repayment of any

part of the cost incurred, or to be incurred in the construction, operation, and maintenance of works of the Garrison Diversion Unit of the Missouri River basin project, the board shall give notice of hearing on such proposed contract as herein provided. Hearings on such contract shall be conducted in at least three places in the district by a contract hearing committee composed of at least three director members of the board as designated by the board. Notice of the time and place of such hearings shall be published at least ten days before such hearing in not less than three newspapers of general circulation in the district. Anyone interested in, or affected by such contract if entered into, may appear at any such hearing and show cause, if any, why such proposed contract should or should not be approved. The contract hearing committee shall submit its report, including support and objections to the contract, and its recommendations to the board for final action. After considering the terms and conditions of such proposed contract and the report and recommendations of the contract hearing committee, the board shall adopt a resolution approving or disapproving such contract. If disapproved, the board may enter into further negotiations with the United States concerning terms for a new or amended contract. At least thirty days before any hearing is held on such contract for construction of facilities or works, plans therefor shall be filed with the secretary of the district and shall be open to public inspection.

61-24-14. When contract is approved. After any such contract shall have been duly executed, as herein provided, the board of directors shall, in accordance with the provisions of such contract, adopt a resolution that a tax be assessed and levied upon all the taxable property in the district. Such tax shall be within the limitation herein provided and shall be levied annually on each dollar of the taxable valuation in the district until the contract obligations have been paid, or a sufficient fund has been accumulated to pay the same. The resolution shall state the purpose of such levy and the amount thereof. A certified copy thereof shall be mailed to the county auditor of each county in the district. Upon the receipt of such resolution or as soon thereafter as county levies are made, such county auditor shall spread the levy specified in such resolution for the current year and annually thereafter as required by such resolution.

61-24-15. Proceedings to confirm contract. The board of directors of the Garrison Diversion Conservancy District, after entering into a contract with the United States government or with any public corporation of the state of North Dakota, may commence a special proceeding in and by which the proceedings of the board and the making of such contract, or contracts, shall be judicially examined, approved, and confirmed, or disapproved and disaffirmed. Such proceeding shall comply as nearly as possible with the procedure required in the case of irrigation districts under the laws of North Dakota.

61-24-16. County may be excluded from conservancy district if not benefited.

1. Any county in the conservancy district not benefited or not to be benefited, in whole or in part, by the establishment of the Garrison Diversion Unit of the Missouri River basin project as authorized by Act of Congress, approved December 22, 1944 [58 Stat. 887], and acts amendatory thereof or supplementary thereto, may be excluded from the district as provided herein. The board of county commissioners of any such county may by resolution direct the county auditor and the chairman of the board to file with the board of directors of the conservancy district a petition, for and on behalf of the county, requesting the board of directors of the district to exclude such county therefrom. A certified copy of the resolution of the county board shall accompany and be filed with such petition. The petition and resolution shall state specific reasons why such county will not be benefited by the establishment and development of the Garrison Diversion Unit.
2. Within sixty days from the date of filing said resolution and petition for exclusion from the district the district board shall meet to consider such petition. It may grant such petition or it may fix a time and place for a hearing thereon. If a hearing be set, the secretary of the board shall cause notice of the filing of such petition for exclusion, and of the time and place for a hearing, to be published once each week for two consecutive weeks in a newspaper of general circulation printed in the district. The hearing mentioned in such notice shall be held not less than ten nor more than

twenty days after the last publication of such notice. The notice shall state that any person, corporation, limited liability company, municipality, and county in the district may appear or be represented at the hearing and show cause why the petition should or should not be granted. The board shall hear the petition at the time and place mentioned in the notice.

3. If after the hearing on the petition the district board of directors shall determine that the county requesting to be excluded from the district will not be benefited the district board shall by resolution grant the petition and shall direct the chairman and secretary to execute the order of the board excluding such county from the conservancy district. If, however, the district board shall decide that such county will be benefited it shall deny the petition and direct the chairman and secretary to execute its order refusing to exclude such county from the district. A county excluded from the conservancy district shall not be liable for any obligations thereof incurred after exclusion but shall be liable for and shall pay to the district taxes levied before exclusion.
4. If any contract shall have been made with the United States or any agency thereof before such petition is filed, such petition shall not be granted unless consented thereto by the appropriate agency of the United States and if such agency gives its consent upon condition, such conditions shall be included in the order of exclusion and the county may be required to and in that event such county shall continue to pay any tax levies required to meet the obligations of any such contract.

61-24-17. Appeal from orders of district board. An appeal from an order of the board of directors of the conservancy district denying a petition for exclusion may be taken to the district court of the petitioning county. The appeal must be taken in accordance with the procedure provided in section 28-34-01. The appeal must be docketed as any cause pending in district court is docketed and thereupon the court shall hear and determine the cause without a jury. An appeal to the supreme court may be taken by the petitioning county or by the conservancy district, from any judgment entered in district court, and from any order of the court if an appeal would lie from such order if entered by the court in a civil action.

61-24-18. State and political subdivisions contracting with the bureau of reclamation - Roads. In connection with the construction and development of the Garrison Diversion Unit of the Missouri River basin project, the highway authorities of the state, or any county or organized township or municipality, are authorized to enter into agreements with each other or with the federal government, respecting the financing, planning, establishment, relocation, improvement, maintenance, use, regulation, vacation, or abandonment of public ways in their respective jurisdictions. Where any such contracts require the relocation, vacation, or abandonment of particular public ways, the contracting state agency, county, organized township, or municipality shall be vested with and authorized to exercise the powers of the state in the relocation, vacation, or abandonment of existing public ways.

61-24-19. Easement granted for ditches, canals, tramways, and transmission lines on any public lands. In connection with the construction and development of the Garrison Diversion Unit of the Missouri River basin project, there is granted over all the lands belonging to the state, including lands owned or acquired for highway right-of-way purposes, a right of way for ditches or canals and for tunnels, tramways, and telephone and electric transmission lines constructed as part of the Garrison Diversion Unit; provided, however, that the director of the department of transportation, the board of county commissioners, or the board of township supervisors must approve the plans of the bureau of reclamation with respect to the use of any and all right of way of roads under their respective control prior to such grant becoming effective.

61-24-20. Director of agricultural experiment station to determine best management practices - Reports to the Garrison Diversion Conservancy District - Monitoring of ground water quality.

1. The director of the agricultural experiment station, with respect to all land to be irrigated by water from the Garrison Diversion Unit of the Pick-Sloan Missouri River basin project, shall promulgate rules and regulations for the determination of best management practices on the affected land. The rules and regulations may be amended from time to time. For the purposes of this section and section 61-24-21, "best management practices" means the application of water, fertilizers, pesticides, and herbicides in amounts that maximize crop production and economically efficient farming, while, at the same time, minimizing chemical or other pollution and degradation of ground or surface water supplies in areas irrigated with water from the Garrison Diversion Unit. Upon determining the best management practices for all land in question, the director of the agricultural experiment station shall file the information with the headquarters office of the district.
2. The district in cooperation with other state agencies shall monitor the ground and surface water quality in all areas irrigated with water from the Garrison Diversion Unit, to determine compliance with the regulations concerning best management practices for farming of that land. If violations of best management practices are discovered, the district shall determine the location of all irrigators causing the violation and shall reduce the amount of water which may be distributed to the violating irrigator consistent with best management practices.

61-24-21. District to allocate water in accordance with best management practices.

The district shall distribute water to irrigators purchasing water from the district in amounts that are consistent with the determinations of the director of the agricultural experiment station for best management practices in the farming of the applicable land.